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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,744	08/29/2003	John M. Lown	FL02-N54	1764

7590 12/15/2004

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EXAMINER

SMALLEY, JAMES N

ART UNIT PAPER NUMBER

3727

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/652,744

Applicant(s)

LOWN ET AL.

Examiner

James N Smalley

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/29/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 13-16, it is unclear how the angles between theta and lambda can differ relative to each other, when they are defined in the independent claim 11 to be equal to each other.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4-7, 9-12 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by McNab US 6,050,434.

McNab '434 teaches a polypropylene cap body having a lower section (11) with threads (12') for cooperation with container threads, upwardly extending flange (base of (17)), lid (19) with a downwardly extending flange (44), and hinge (26) pivotally connecting the lid to the cap body.

Regarding claim 7, because the cap is formed of polypropylene, it inherently has a hardness of about 80.

Regarding the numerical ranges for the flange angles, Examiner notes the curved profile of these interlocking flanges. Noting fig. 10, the flanges are perfectly mated, and comprise an "S" shape which has tangential components comprising angles that read over the claimed angular ranges.

Regarding claim 17, the tongue is located outward of (23), and is "downwardly extending" in that it has a vertical thickness, and further has a bottom surface comprising the outwardly extending finger engaging surface."

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quinn et al. US 5,582,314 in view of Anderson US 4,380,304.

Quinn '314 teaches a polypropylene hinged closure for containers, comprising a threaded base (14), and a lid (18) pivotally fixed to the base with an outwardly extending tongue (55), bore (72), and hinge pin (74) with a diameter slightly larger than the bore.

Quinn '314 does not teach interlocking flanges, instead only teaching a plug-sealing flange (44).

Anderson '304 teaches providing interlocking flanges (24) and (88) to a container lid and opening periphery. The flanges do not have angles equal to each other, with respect to the vertical axis.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lid and base of Quinn '314, providing interengaging flanges such as those taught by Anderson '304, motivated by the benefit of providing an additional sealing structure.

Regarding claims 4-5 and 9, Examiner takes Official Notice it would be obvious to configure the shape of the beads to any angle, motivated by the desire to configure the sealing properties and interlock strength to a desired value. Examiner notes this type of connection is well known, and cites herewith a body of prior art teaching flanges of various angular configurations. Furthermore, Examiner notes configuring the shape and angle of the flanges is well within ordinary skill. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

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7. Claims 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quinn et al. US 5,582,314 in view of Tupper US 2,690,861.

Quinn '314 teaches a polypropylene hinged closure for containers, comprising a threaded base (14), and a lid (18) pivotally fixed to the base with an outwardly extending tongue (55), bore (72), and hinge pin (74) with a diameter slightly larger than the bore.

Quinn '314 does not teach interlocking flanges, instead only teaching a plug-sealing flange (44).

Tupper '861, in the embodiment of fig. 4, teaches a base component flange (24) and cap having a plug seal (33) and sealing flange (25) to engage the base component flange, which appear to have equal angles with respect to vertical.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lid and base of Quinn '314, providing interengaging flanges such as those taught by Tupper '861, motivated by the benefit of providing an additional sealing structure.

Regarding claims 13-16, Examiner takes Official Notice it would be obvious to configure the shape of the beads to any angle, motivated by the desire to configure the sealing properties and interlock strength to a desired value. Examiner notes this type of connection is well known, and cites herewith a body of prior art teaching flanges of various angular configurations. Furthermore, Examiner notes configuring the shape and angle of the flanges is well within ordinary skill. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quinn et al. US 5,582,314 in view of Anderson US 4,380,304, as applied above to claim 1, and in further view of Gilmour US 5,078,291.

Quinn '314 does not teach a removable handle.

Gilmour '291 teaches a removable handle (85) to be fixed to a closure cap (10).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cap of Quinn '314, providing slots to removably receive a handle, motivated by the option of providing a carrying handle to the cap.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:


US 6,761,283	US 4,386,714
US 6,488,187	US 3,214,881
US 5,863,655	US 2,958,439
US 5,145,646	US 2,882,947
US 5,133,470	

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N Smalley whose telephone number is (703) 605-4670. The examiner can normally be reached on M-Th 9-7:30, Alternate Fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jns



Stephen K. Cronin
Primary Examiner